IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 5001 of 2004(U)

AGAINST THE ORDER IN OS.298/00,OS.301/00 IN OS.358/2000 of MUNSIFF COURT, CHANGANACHERRY

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PETITIONER:

S.VIJAYAKUMAR S/O. LATE C.N.SREEDHARAN NAIR, JAGADEESA MANDIRAM, RUBY NAGAR, CHANGANACHERRY.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:

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1. **THE SURVEY SUPERINTENDENT, RESURVEY OFFICE, CHANGANACHERRY.**
2. **THE TAHSILDAR, CHANGANACHERRY.**
3. **SUB GROUP OFFICER, (MORKULANGARA DEVASWOM) VAZHAPPALLY KARA AND POST, CHANGANACHERRY.**
4. **THE DISTRICT COLLECTOR, KOTTAYAM.**
5. **THE DEPUTY DIRECTOR OF SURVEY, CIVIL STATION, KOTTAYAM.**
6. **K.KUMARI DEVIAMMA W/O. G.SUKUMARAN NAIR, GOPURATHUNGAL HOUSE, VAZHAPPALLY EAST, CHANGANCHERRY.**

...2/-

7. JOSE S/O. THOMAS, PALATHUMKAL HOUSE, VAZHAPPALLY EAST, CHANGANACHERRY NOW ASSIGNED AS MANAGER, STATE BANK OF TRAVANCORE, CHALAKUDY.

8. SMITHA JOSE W/O. JOSE, PALATHUMKAL HOUSE, VAZHAPPALLY EAST, CHANGANACHERRY. (NOW STAYING WITH HER HUSBAND JOSE AT CHALAKUDY IN THE ADDRESS AS INDICATED ABOVE)

*ADDL.R9 IS IMPLEADED:

R9. M.G.KAMALAMMA,
W/O./LATE C.N.SREEDHARAN NAIR,
JEGADEESH MANDIRAM NO.1,
RUBY NAGAR POST, CHANGANACHERRY.

(ADDL.R9 IS IMPLEADED AS PER ORDER DTD. 29/06/04 IN I.A.NO.8050/04)

BY ADV. SRI.D.KRISHNA PRASAD for R6 to R8
SRI.P.G.PARAMESWARA PANICKER (SR.) for R3
SRI.A.K.ALEX
SRI.D.NARENDRANATH
SRI.D.SREEKUMAR, SC, TDB
BY GOVERNMENT PLEADER for R1,R2,R4 & R5

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PLAINT IN FILED IN O.A.NO.358/2000 OF THE MUNSIFF COURT, CHANGANACHERRY.

EXT.P2: COPY OF FIRST RESPONDENTS' NOTICE DTD. 31/12/03 COMMUNICATED TO PETITIONER.

EXT.P3: COPY OF PETITIONER REPLY DTD. 5/01/04 FORWARDED TO FIRST RESPONDENT.

EXT.P4: COPY OF FIRST RESPONDENT'S NOTICE DTD. 31/01/04 CONNECTED TO PETITIONER.

EXT.P5: COPY OF PETITIONER'S REPLY DTD. 7/02/04 CONNECTED TO FIRST RESPONDENT.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE PETITION DTD. 09/06/1999 SUBMITTED TO THE TAHSILDAR, CHANGANACHERRY.

EXT.R3(B): COPY OF THE PETITION DTD. 09/06/1999 SUBMITTED TO THE REVENUE DIVISIONAL OFFICER, KOTTAYAM.

EXT.R3(C): COPY OF THE PETITION DTD. 09/06/1999 SUBMITTED TO THE SECRETARY, CHANGANACHERRY MUNICIPALITY.

EXT.R3(D): COPY OF THE LETTER NO.L.DIS.2698/99/M DTD. 06/07/1999 OF THE REVENUE DIVISIONAL OFFICER, KOTTAYAM.

EXT.R3(E): COPY OF THE NOTICE NO.H4-5649/99 DTD. 23/06/1999 ISSUED BY THE SECRETARY, CHANGANACHERRY MUNICIPALITY.

EXT.R3(F): COPY OF THE PETITION DTD. 27/01/2004 SUBMITTED TO THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(G): COPY OF THE NOTICE NO.B2-54/04 DTD. 31/01/2004 ISSUED BY THE SUPERINTENDENT OF SURVEY.

...2/-

EXT.R3(H); COPY OF THE STATEMENT DTD. 09/02/2004 SUBMITTED BY THE 3RD RESPONDENT.

EXT.R3(I): COPY OF THE ORDER NO./B2-54/04 DTD. 09/02/2004 OF THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(J): COPY OF THE ORDER NO.B2-54/04 DTD. 09/02/2004 OF THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(K): COPY OF THE SKETCH PREPARED BY THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(L): COPY OF THE SKETCH PREPARED BY THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(M): COPY OF THE SKETCH PREPARED BY THE SUPERINTENDENT, RE-SURVEY, CHANGANACHERRY.

EXT.R3(N): COPY OF THE PARTITION DEED DTD. 03/09/69 EXECUTED IN THE PETITIONER'S FAMILY.

6TH RESPONDENT'S EXHIBIT:

EXT.R6(A): COPY OF THE JUDGMENT DTD. 28/07/2005 IN O.S.NOS.298/2000, 301 OF 2000 AND 358/2000 ON THE FILE OF THE MUNSIFF'S COURT, CHANGANACHERRY.

/TRUE COPY/

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PIUS C. KURIAKOSE, J.

W.P.(C) No. 5001 OF 2004

Dated this the 21st day of June, 2007

JUDGMENT

This writ petition is filed by the petitioners impugning Exts.P2 and P4 on the basis that the Munsiff Court, Changanacherry is in seizin of three regular civil suits. One of the reliefs sought for is a direction for early disposal of the three connected suits. It is conceded that pending this Writ Petition, all the suits have been disposed of and in that way the second relief sought for stands virtually granted. It is submitted that regular appeals have been filed against the common judgment passed by the learned Munsiff in those suits since regular civil court is in seizin of the matter, it will not be proper that this court in this jurisdiction examines the legal correctness of Exts.P2 and P4.

Under these circumstances, I am inclined to dispose of the Writ Petition itself issuing the following directions:

The court which is presently in seizin of the appeals which have been preferred against the judgments and decree in OS Nos.298, 301 and 358 of 2000, will expedite the hearing and disposal of those appeals and if the appeals are ripe for hearing, that court will take final decision on the appeals at the earliest and at any rate within three months of receiving copy of this judgment. It is made clear that the circumstance

that this Court declined to interfere with Exts.P2 and P4, will not stand in the way of the court below from considering the arguments to be advanced by the petitioners in the appeals. All arguments which are legally available to the petitioners in the appeal should be permitted to be urged by them. The appellate court will have due regard to the arguments in the appeals regarding the probative value of the document which is marked by the trial court as Ext.B4.

The Writ Petition is disposed of as above. No costs.

PIUS C. KURIAKOSE, JUDGE

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